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MEMO ENDORSED

November 10, 2014

VIA ECF

The Honorable Denise L. Cote
United States District Judge
United States District Court
Southern District of New York
500 Pearl Street, Room 1610
New York, NY 10007-1312

Re: FHFA v. Nomura Holding Am. Inc., No. 11 Civ. 6201 (DLC) (S.D.N.Y.)

Dear Judge Cote:

I write on behalf of Plaintiff Federal Housing Finance Agency (“FHFA”) regarding page limits for and proposed redactions to FHFA’s motion for partial summary judgment on Defendants’ due diligence and reasonable care defenses, which will be filed later today in the above-captioned Action.

With respect to page limits, FHFA respectfully requests that it be granted 90 pages for its opening memorandum of law in support of its motion. These additional pages are necessary to because FHFA has consolidated its presentation against each of two defendants, Nomura and RBS, into a single brief. Although other defendants in these coordinated litigations have consented to 65-page opening briefs when such briefs addressed only one corporate entity, *see, e.g.*, Endorsed Letter, *FHFA v. HSBC N. Am. Holdings, Inc.*, No. 11-cv-6189 (DLC) (S.D.N.Y. June 24, 2014) (Dkt. No. 786) (granting FHFA’s unopposed request to file 65-page memorandum of law regarding HSBC defendants’ due diligence and reasonable care defenses); Endorsed Letter, *FHFA v. Goldman, Sachs & Co.*, No. 11-cv-6198 (DLC) (S.D.N.Y. June 10, 2014) (Dkt. No. 727) (same for Goldman Sachs defendants), Defendants here have advised that they do not consent to FHFA’s request.¹

¹ Defendants cited the Court’s “expedited” briefing schedule as the basis for their refusal to consent. No part of that briefing schedule, or any other letter to the Court, addressed page limits for this motion. As explained in text, moreover, FHFA’s presentation against each defendant, since they are both addressed in a single brief, is in fact shorter than the Court has approved for its prior diligence briefs in other actions. Further, FHFA was able to complete its opening brief within eleven days after it completed its due diligence depositions, and there is no reason that Defendants cannot also proceed expeditiously by completing their opposition brief in the more than three weeks the Court has allotted. In fact, the parties have completed briefing on substantial issues on similar schedules before. *See, e.g.*, Order at 1-2 (Dkt. 714) (giving FHFA two and a half weeks to oppose Defendants’ motion for summary judgment on the statutes of repose, with briefing concluded in under a month).

With respect to proposed redactions, because the parties have designated certain of the materials supporting FHFA's motion for partial summary judgment as "Confidential" or "Highly Confidential," under the First Amended Protective Order, and because the materials supporting FHFA's motion for partial summary judgment may contain Non-Party Borrower Information (as defined in paragraph 2.8 of the First Amended Protective Order), FHFA is filing its motion under seal, pursuant to paragraph 9 of the First Amended Protective Order. FHFA may propose redactions to certain of the materials supporting its motion for partial summary judgment, and also wishes to give Defendants an opportunity to propose any redactions they think necessary. To facilitate that process, FHFA respectfully requests that the Court give the parties until Tuesday, November 25, 2014, to meet and confer regarding proposed redactions, and until Friday, December 5, 2014, to file a joint submission to the Court listing the proposed redactions to which neither party objects and those to which a party objects. Defendants consent to this request.

Thank you for Your Honor's consideration of this submission.

Respectfully submitted,

/s/ Philippe Z. Selendy
Philippe Z. Selendy

QUINN EMANUEL URQUHART &
SULLIVAN, LLP

Approved.

Quinn Emanuel Urquhart & Sullivan, LLP
Nov. 12, 2014

*Attorneys for Plaintiff Federal Housing
Finance Agency*

CC: Counsel of record (via ECF)